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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

IN RE STEC, INC. SECURITIES
LITIGATION

) No. SACV 09-01304-JVS (MLGx)

)

) **UNOPPOSED EX PARTE
APPLICATION OF LEAD**

) **PLAINTIFF FOR AN ORDER
SHORTENING TIME OR, IN
THE ALTERNATIVE, FOR A
CONTINUANCE OF THE
HEARING ON THE MOTION
FOR CERTIFICATION OF
INTERLOCUTORY APPEAL**

)

) Judge: Hon. James V. Selna

) Court: 10C

)

)

This Document Relates To:

ALL ACTIONS

1 Lead Plaintiff, the State of New Jersey, Department of Treasury, Division of
2 Investment, hereby applies *ex parte* for an order shortening the time for a hearing on
3 the Motion for Certification for Interlocutory Appeal (Docket No. 26) (the
4 “Motion”) filed by former lead plaintiffs Arman Rashtchi and Keith Ovitt
5 (“Rashtchi & Ovitt”), or, in the alternative, granting a continuance of that hearing.
6

7 On July 22, 2010, Rashtchi & Ovitt filed the Motion and set oral argument on
8 the Motion for August 30, 2010 at 1:30 p.m.
9

10 By this application, Lead Plaintiff seeks an order setting a hearing date on the
11 Motion for August 30, 2010 at 9:00 a.m. or, in the alternative, on September 13,
12 2004 at 1:30 p.m. Lead Plaintiff seeks this accommodation by the Court due to a
13 personal conflict of Thomas A. Dubbs, the Senior Partner of Labaton Sucharow LLP
14 who will represent Lead Plaintiff with respect to oral argument on the Motion, with
15 the current date and time of the hearing on the Motion. As described in further
16 detail in the attached declaration, an afternoon hearing on August 30, 2010 conflicts
17 with Mr. Dubbs’ preexisting plans to take one of his children to college for the start
18 of his freshman year. Dubbs Decl., at ¶ 4.
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20 Through their counsel, Defendants and Rashtchi & Ovitt have indicated that
21 they will not oppose this application. Dubbs Decl., at ¶ 5.
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1 WHEREFORE, Lead Plaintiff respectfully requests that the Court issue an
2 Order setting the date and time for the hearing on Rashtchi & Ovitt's Motion for
3 Certification for Interlocutory Appeal for August 30, 2010 at 9:00 a.m. or, in the
4 alternative, September 13, 2004 at 1:30 p.m.

5
6 Dated: August 23, 2010

Respectfully submitted,

7 By: /s/ Christopher Kim

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1 **DECLARATION OF THOMAS A. DUBBS**

2
3 I, Thomas A. Dubbs, hereby declare:

4 1. I am an attorney admitted to practice law in the State of New York, and
5 am a Senior Partner at Labaton Sucharow LLP, counsel for Lead Plaintiff, the State
6 of New Jersey, Department of Treasury, Division of Investment ("Lead Plaintiff").
7 I have personal knowledge of the facts stated in this declaration, and if called as a
8 witness, I could testify competently about such facts.

9 2. I submit this declaration in support of Lead Plaintiff's *ex parte*
10 application ("Application") for an order shortening the time for a hearing on the
11 Motion for Certification for Interlocutory Appeal (Docket No. 26) (the "Motion")
12 filed by former lead plaintiffs Arman Rashtchi and Keith Ovitt ("Rashtchi &
13 Ovitt"), or, in the alternative, granting a continuance of the hearing.

14 3. On July 22, 2010, Rashtchi & Ovitt filed the Motion and set oral
15 argument on the Motion for August 30, 2010 at 1:30 p.m.

16 4. My wife and I have preexisting plans to drive one of our sons to college
17 on the morning of August 31, 2010 for the start of his freshmen year. I am informed
18 that there are no flight options that will allow me to travel from Santa Ana, CA back
19 to the New York City area after about 2 p.m. on August 30, 2010, unless I take the
20 "red-eye" from Los Angeles that night, and so a 1:30 p.m. hearing on that day poses
21 a personal conflict for me.


22 5. Neither Rashtchi & Ovitt nor Defendants will oppose this Application.
23 On August 17, 2010, Christopher W. Johnstone of Latham & Watkins LLP,
24 Attorneys for Defendants STEC, Inc., Manouch Moshayedi, Mark Moshayedi,
25 Raymond D. Cook, and Rajat Bahri, indicated via e-mail correspondence that his
26 clients would not oppose this Application. On August 23, 2010, John D. Pernick of
27 Bingham McCutchen LLP, attorneys for Defendants Barclays Capital Inc., Deutsche
28 Bank Securities Inc., J.P. Morgan Securities Inc., and Oppenheimer & Co., Inc.,

1 indicated via e-mail correspondence that his clients would not oppose this
2 Application. Also on August 23, 2010, I spoke telephonically with Blair A.
3 Nicholas of Bernstein Litowitz Berger & Grossman LLP, attorneys for Rashtchi &
4 Ovitt, who told me that his clients would not oppose this Application.

5 6. As such, Lead Plaintiff respectfully request that that the Court set the
6 hearing on Rashtchi & Ovitt's Motion for Certification for Interlocutory Appeal for
7 August 30, 2010 at 9:00 a.m., or, in the alternative, September 13, 2004 at 1:30 p.m.

8 I declare under penalty of perjury under the laws of the United States that the
9 foregoing is true and correct.

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11 Executed on August 23, 2010, at New York, New York.

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13 
14 Thomas A. Dubbs